

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
NORTHERN DIVISION**

DAVID A. CARNEY,)
vs.)
Plaintiff,)
vs.) No. 2:04CV92-SNL
ALLEN WALKER, VICTORIA HESS,)
TERRY WHITE, JIM LONG,)
MICHAEL THOMPSON, HEATH COOPER,)
and CHARLES R. CARRIKER, JR.,)
Defendants.)

ORDER

The Court is in receipt of plaintiff David A. Carney's request for appointment of counsel (#19) and the defendants' response to plaintiff's request for counsel (#22).

The appointment of counsel for an indigent pro se plaintiff lies within the discretion of the Court. Indigent civil litigants do not have a constitutional or statutory right to appointed counsel. Stevens v. Redwing, et al., 146 F.3d 538, 546 (8th Cir. 1998); Edgington v. Mo. Department of Corrections, 52 F.3d 777, 780 (8th Cir. 1995); Rayes v. Johnson, 969 F.2d 700, 702 (8th Cir. 1992). Once the plaintiff alleges a prima facie claim, thereby surviving a frivolity review pursuant to 28 U.S.C. § 1915(d), the Court must determine the plaintiff's need for counsel to effectively litigate his claim. Edgington, supra; Natchigall v. Class, 48 F.3d 1076, 1081-82 (8th Cir. 1995); In re Lane, 801 F.2d 1040, 1043 (8th Cir. 1986). The standard for appointment of counsel in a civil case involves the weighing of several factors which include the factual complexity of a matter, the complexity of legal issues, the existence of conflicting testimony, the ability of the indigent to investigate the facts, and the ability of the indigent to present his claim. Stevens, supra;

Edgington, supra; Natchigall, at 1080-81; Johnson v. Williams, 788 F.2d 1319, 1322-1323 (8th Cir. 1986).

Plaintiff has been able to pursue this matter adequately and the Court finds that appointment of counsel is not mandated at this time.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for appointment of counsel filed May 13, 2005 is **DENIED** without prejudice at this time.

Dated this 28th day of July, 2005.



SENIOR UNITED STATES DISTRICT JUDGE